

**Before the
Federal Communications Commission
Washington, D.C.**

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| In the Matter of |) | |
| |) | |
| Preserving the Open Internet |) | GN Docket No. 09-191 |
| |) | |
| Broadband Industry Practices |) | WC Docket No. 07-52 |
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REPLY COMMENTS OF TECHAMERICA

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TechAmerica hereby submits these reply comments to the Federal Communications Commission (“Commission”) in regard to the Commission’s Further Inquiry concerning the application of open Internet principles to “specialized services” and mobile wireless broadband.¹ TechAmerica’s members have a vested interest in ensuring that the Internet remains a vibrant medium of communication and e-commerce. Therefore, TechAmerica is pleased to be able to file reply comments on their behalf in this proceeding.

TechAmerica is the leading voice for the U.S. technology industry, which is the driving force behind productivity growth and jobs creation in the United States and the foundation for the global innovation economy. Representing approximately 1,200 member companies of all sizes from the public and commercial sectors of the economy, TechAmerica is the industry’s largest advocacy organization and is dedicated to helping members’ top and bottom lines. It is also the technology industry’s only grassroots-to-global advocacy network, with offices in state capitals around the United States, Washington, D.C., Europe (Brussels) and Asia (Beijing).

TechAmerica’s members include: manufacturers and suppliers of broadband networks and equipment; consumer electronics companies; ICT hardware companies; software and application providers; systems integrators; Internet and e-commerce companies; and Internet service providers.

Specialized Services

The general tenor of initial comments in this proceeding made by certain TechAmerica members with regard to the application of “open Internet” rules or

¹*Preserving the Open Internet; Broadband Industry Practices*, GN Docket No. 09-191, WC Docket No. 07-52, Further Inquiry into Two Under-Developed Issues in the Open Internet Proceeding (rel. Sept. 1, 2010) (Further Inquiry).

principles to specialized services is that the Commission should refrain from active and prescriptive regulation at this time.² TechAmerica agrees with these comments.

The Commission has correctly recognized that network providers can play a role in providing additional services over their broadband infrastructure.³ Concurring with the Commission, TechAmerica believes that network providers can and do add value to the Internet by providing more than just access to “best efforts” Internet service.

Broadband providers should have the right to offer consumers certain additional options over their broadband facilities. As noted in the initial comments, such offerings can increase choice to consumers and help support investments in higher capacity networks.⁴

However, it is also important that in offering such alternative services, broadband providers are not disincentivized from providing an open network and investing in ample capacity to support robust Internet access for consumers. TechAmerica believes the best way to ensure that broadband providers continue to invest in both specialized

² See, e.g., Comments of Verizon and Verizon Wireless, *Further Inquiry into Two Under-Developed Issues in the Open Internet Proceeding*, GN Docket No. 09-191, WC Docket No. 07-52, at 5-8 (Oct. 12, 2010) (“Verizon Comments”); Comments of AT&T Inc., *Further Inquiry into Two Under-Developed Issues in the Open Internet Proceeding*, GN Docket No. 09-191, WC Docket No. 07-52, at 13-16 (Oct. 12, 2010) (“AT&T Comments”); Comments of Sprint Nextel Corporation, *Further Inquiry into Two Under-Developed Issues in the Open Internet Proceeding*, GN Docket No. 09-191, WC Docket No. 07-52, at 6-7 (Oct. 12, 2010) (“Sprint Comments”); Comments of Qualcomm Inc., *Further Inquiry into Two Under-Developed Issues in the Open Internet Proceeding*, GN Docket No. 09-191, WC Docket No. 07-52, at 3 (Oct. 12, 2010) (“Qualcomm Comments”); Comments of Qwest Communications International Inc., *Further Inquiry into Two Under-Developed Issues in the Open Internet Proceeding*, GN Docket No. 09-191, WC Docket No. 07-52, at 8 (Oct. 12, 2010) (“Qwest Comments”); Comments of the Open Internet Coalition, *Further Inquiry into Two Under-Developed Issues in the Open Internet Proceeding*, GN Docket No. 09-191, WC Docket No. 07-52, at 5 (Oct. 12, 2010) (“OIC Comments”). The OIC includes TechAmerica members Google, eBay, and Facebook.

³ Further Inquiry at 2.

⁴ See, e.g., Qualcomm Comments at 3; Sprint Comments at 7; AT&T Comments at 13-22; Verizon Comments at 45, 64.

services and Internet access services is for the Commission to rely in the first instance on the vibrant competition that already exists in the broadband Internet marketplace. In order to make sure consumers are able to make informed choices, the Commission should focus on whether consumers have access to adequate information about the Internet services they use.

A general policy principle espoused in the Commission's Further Inquiry is that of "disclosure."⁵ Upon review of the initial comments filed in this proceeding, TechAmerica believes that, to the extent possible, providers of broadband Internet services should be publicly transparent in the types of alternative services offered and their effects on the provision of Internet service.⁶

As TechAmerica has stated previously, transparency is an important tool for everyone in the Internet ecosystem. Consumers, network operators, end-user businesses, and others will greatly benefit from the added knowledge transparency will bring. The goal should be to provide all members, particularly end-users, within the Internet landscape an accurate picture of services rendered. Armed with such knowledge, consumers will be able to better assess their level and quality of service so that they can make more informed decisions regarding their service options. Such consumer empowerment by its very nature will likely deter inappropriate conduct going forward. In addition, this information will allow network operators to better inform the

⁵ Further Inquiry at 3.

⁶ See, e.g., Verizon Comments at 40 ("Transparency from all providers in the Internet ecosystem concerning the features and capabilities of their respective offerings is [better than] prescriptive regulatory requirements."); AT&T Comments at 37-38 ("...AT&T supports a principle favoring increased transparency about the features and limitations of all broadband-related services as consumers experience them.").

Commission about the extent to which operators face service constraints and how the provision of specialized services may alleviate those constraints.

In sum, TechAmerica cautions the Commission from regulating at this time the provision of specialized services in the context of its “open Internet” proceeding and asks that it continue to recognize the impact any such regulation may have on private sector investment in broadband networks.

Mobile Wireless

While the diversity of viewpoints among its members prevents TechAmerica from taking a position on whether the Commission’s open Internet principles should be applied to mobile wireless platforms, TechAmerica nonetheless believes that the wireless network ecosystem is vibrant and highly competitive and the Commission should strongly take this into consideration during its deliberations. Further, TechAmerica notes that considerable investments have been and continue to be made within the sector by all market participants and that wireless networks are inherently different from wireline networks in terms of functionality, operational management and intelligence. These latter two points are especially important if the Commission is contemplating further rules for mobile wireless broadband service. Any rules that fail to take into consideration the unique technological characteristics of the mobile wireless ecosystem could run the very real risk of stifling further investment in such networks. Indeed, increasing mobile data demands coupled with a current scarcity of spectrum to meet those demands necessitate mobile wireless network providers having flexibility to accommodate consumer needs via innovative business models, such as usage-based pricing.

Applications and Application Providers

TechAmerica concurs with the comments submitted by its members and others that Internet applications and application stores should remain free of Commission regulation at this time.⁷

Indeed, there is no sound reason to impose communications laws or regulations on the robust marketplace of Internet applications and application stores. Any consumer protection concerns regarding applications or application providers should be directed to government agencies of general jurisdiction.

The application marketplace is thriving free from regulation. In order to ensure that consumers continue to reap the rewards of dynamic application innovation, the Commission must refrain from regulation in this regard at this time.

Conclusion

TechAmerica appreciates the Commission's willingness to seek further information with regard to specialized services and the development of the application marketplace, especially as it applies to mobile wireless broadband.

As noted above, TechAmerica believes that with respect to the regulation of specialized services, the Commission should exercise extreme prudence and not impose any further regulations at this time. Such services can be quite beneficial to the consumer and facilitate further investment in broadband networks. Allowing for limited disclosure of the use and effects of specialized services, to the extent possible, should

⁷ Comments of T-Mobile USA, Inc., *Further Inquiry into Two Under-Developed Issues in the Open Internet Proceeding*, GN Docket No. 09-191, WC Docket No. 07-52, at 20-22 (Oct. 12, 2010); Verizon Comments at 30; OIC Comments at 9; AT&T Comments at 52.

provide consumers, the Commission, and other interested parties with sufficient insight into the impact such services have on the Internet ecosystem.

With respect to mobile wireless broadband, TechAmerica requests that the Commission strongly consider the significant financial and technological challenges faced by all providers in the mobile wireless marketplace when considering any possible rules in this regard. However, application stores and application providers should remain free to innovate and produce their offerings free from Commission regulation at this time. Any anti-competitive conduct that may occur with respect to applications and application providers can be dealt with by agencies of general jurisdiction.

Respectfully submitted,

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